

Excerpts
Planning Commission Minutes
April 14, 2001

Application No. PD-13-01, Rainbrook Villas, L.L.C. and Villa Development, L.L.C.: Request to amend the York County Zoning Map by reclassifying approximately 10.5 acres located on the west side of Burts Road and further identified as parcels 29-18, 29-82, and portions of parcels 29-81, 29-82B, 29-82C, 29-82D and 29-83 from R-20 (Medium Density Residential), RC (Resource Conservation) and GB (General Business) to PD (Planned Development), to authorize the expansion of existing Rainbrook Villas from 112 units to 166 units; and a request to reclassify approximately 1.2 acres on the west side of Burts Road from R-20 (Medium Density Residential) to GB (General Business).

Ms. Olivia Wilkinson, assisted by a brief video presentation, summarized the staff memorandum to the Commission dated March 20, 2001, in which the staff recommended approval. She noted that since the video was recorded, the exact acreage has been determined to be 1.6 acres. Ms. Wilkins further pointed out revisions to condition number 12 in the applicant's proffer statement and revisions to conditions 1.e. and 1.g. of proposed Resolution PC01-13(R).

Chair Semmes opened the public hearing.

Mr. Paul Garman, Mid-Atlantic Commercial Realty, 3630 George Washington Memorial Highway, agent for the developer, spoke in behalf of approval. Mr. Garman stated that of 112 approved units at Rainbrook Villas, 69 have been sold and 22 are reserved for sale. Thirty-four of the buyers are from York County, eight from within 10 miles of the County, and all others from out of state, he said. The average sale price is \$145,000, he said, including upgrades purchased by the residents. Each household has an average of 1.3 automobiles. Mr. Garman stated the first phase will probably be sold out and the second phase marketed beginning in the spring of 2002. He thought the experience of Rainbrook Villas proves such communities not only bring a positive cash flow, but also are in demand.

Mr. Garman said the developer has completed agreements with Newport News Waterworks to exchange property for the proposed expansion. Mr. Garman noted that the developer has a stormwater management agreement with Newport News Waterworks to use the regional stormwater pond located to the west of the subject parcels. Mr. Garman stated that the current residents of Rainbrook Villas have reviewed the expansion proposal and support the expansion with a second access. He stated that the developer is willing to delay the construction of a second access until the Burts Road realignment is complete if that is what the Commission recommends.

Mr. Garman introduced principals of the development, Messrs. Tabb Smith, Buddy Spencer, and Roger Glover, and the engineer, Mr. Charlie Newbaker.

Mr. Tabb Smith, Mid-Atlantic Commercial Realty, said the marketing goal is to sell eight units per month. Depending upon the weather, he added, the first phase should sell out sometime in the year 2002.

In response to Mr. Shepperd's request for clarification of the requested rezoning, Ms. Olivia Wilkinson clarified the existing multi-parcel zones and how they are proposed to be rezoned.

Mr. Simasek inquired of the current resale value of the individual units.

Mr. Buddy Spencer, 1609 Calthrop Neck Road, principal developer of Rainbrook Villas, said the demand for units at the 34 villages of this type nationwide would continue to grow as "baby boomers" age into their retirement years. Whenever there is strong demand and limited quantity the values should escalate.

Mr. Spencer discussed the proposed second access and the revised proffers. He said the applicant has voluntarily proffered to develop a temporary second access until work on Burts Road is completed. If the County fails to approve the second access, he continued, the applicant would apply to rezone the proposed access area to a commercial zoning designation in accordance with the current rezoning proposal.

Mr. Beil asked if the proffered gazebo and walkways are completed. He stated the Commission is firm in its commitment to sidewalks for residents and he did not see any internal sidewalks during a recent visit to the development. Mr. Garman replied that the gazebo is complete and the internal loop sidewalk will be completed as quickly as possible.

The Chair closed the public hearing.

Mr. Semmes acknowledged the staff position regarding access from Burts Road at this time, but asked if the internal street system within the development would be constructed. Ms. Wilkinson explained that the internal roadways would have to be completed but the staff does not recommend any ingress or egress at Burts Road until it has been realigned and recommends that an emergency access be established at this location as recommended by the Department of Fire and Life Safety. Ms. Wilkinson stated that the internal street system of Phase Two provides access to Phase One and recommended that Route 17 be the sole access for the development until the Burts Road realignment is completed. Staff has concerns regarding safety and traffic saturation if a second access is constructed as proposed on the existing, 16-foot-wide Burts Road, Ms. Wilkinson added. When realigned, Burts Road would meet or exceed the VDOT criteria of 22 feet for a secondary road, she explained.

Mr. Mark Carter added that safety at the unsignalized intersection of Burts Road and Route 17 is the primary basis for the staff recommendation and said that, once Burts Road is realigned, there would be a permanent entrance at Burts Road. In response to a question from Mr. Shepperd, Ms. Wilkinson noted that maintenance of the roads inside the development would be the responsibility of the homeowners' association.

Ms. White said that the development is a first class operation and does not overburden the school system.

Mr. Semmes agreed that it appears to be an excellent project.

Mr. Shepperd said it appears the drainage issues have been adequately addressed and believes it is the best use of the property. He expressed thanks to Mr. Garman for an enlightening presentation.

Mr. Simasek concurred with the others' comments, but cautioned that traffic on Route 17 will continue to grow, and expressed favor for one entrance instead of two. Mr. Semmes agreed.

Mr. Beil commended the developers for this project.

Mrs. White moved the adoption of Resolution PC01-13(R). It carried by a roll call vote of 7:0.

PC01-13(R)

On motion of Mrs. White, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO EXPAND THE RAINBROOK VILLAS PLANNED DEVELOPMENT ONTO AN ADJACENT 10.14 ACRES AND TO RECLASSIFY APPROXIMATELY 1.6 ACRES ON THE WEST SIDE OF BURTS ROAD SUBJECT TO CERTAIN CONDITIONS PROFFERED BY THE OWNERS OF THE PROPERTY

WHEREAS, Villa Development and Rainbrook Villas, L.L.C. have submitted Application No. PD-13-01, which requests amendment of the York County Zoning Map by reclassifying an approximately 10.14 acre piece of property from RC (Resource Conservation), R-20 (Medium Density Residential), and GB (General Business) to PD (Planned Development) and an approximately 1.6 acre piece of property from R-20 (Medium Density Residential) to GB (General Business) located on the west side of Burts Road and further identified as Assessor's Parcel No.'s 29-18, 29-82, and portions of 29-81, 29-82B, 29-82C, 29-82D, and 29-83.

WHEREAS, said application has been referred to the York County Planning Commission; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application in accordance with applicable procedure; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of April, 2001 the Application No. PD-13-01 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying an approximately 10.14 acre piece of property from RC (Resource Conservation), R-20 (Medium Density Residential), and GB (General Business) to PD (Planned Development) and an approximately 1.2 acre piece of property from R-20 (Medium Density Residential) to GB (General Business) located on the west side of Burts Road and further identified as Assessor's Parcel No.'s 29-18, 29-82, and portions of 29-81, 29-82B, 29-82C, 29-82D, and 29-83 and more fully identified and described as follows:

From RC (Resource Conservation), R-20 (Medium Density Residential), and GB (General Business to PD (Planned Development):

All that certain lot, piece or parcel of land situate, lying and being in the County of York, Virginia, containing approximately 10.14 acres and being known and designated as "Area proposed to be rezoned from RC, R-20, and GB to PD (10.14 acres)" as shown on that certain preliminary plan entitled "Preliminary #11, Additional Land of Rainbrook Villas" prepared by The Sirine Group, LTD., dated February 28, 2001 and more particularly described as follows:

Beginning at a point on the proposed right-of-way of the future Burts Road alignment thence proceeding along the future Burts Road right-of-way S 12°-17'-40" E 801.74 feet to a point; thence turning and leaving said future right-of-way S 74°-52'-23" W 125.81 feet to a point; thence N 77°-34'-37" W 239.36 feet to a point; thence N 17°-01'-32" W 63.43 feet to a point, thence N 73°-41'-37" W 353.76 feet to a point; thence N 06°-29'-28" W 510.11 feet to a point; thence N 80°-44'-20" E 185.97 feet to a point; the point of beginning. Said parcel being further described as the western most 441,737 SQ. FT. of properties designated as tax parcel 29-82D, 29-82, 29-82B AND 29-83 on the County of York Tax Maps; Owned by Villa Development, L.L.C., a Virginia Limited Liability Company and recorded in the Clerk's Office of the Circuit Court for the County of York, Virginia in D.B. , P. .

From R-20 (Medium Density Residential to GB (General Business)

All that certain lot, piece or parcel of land situate, lying and being in the County of York, Virginia, containing approximately 1.6 acres and being known and designated as "Area proposed to be rezoned from R-20 to GB (1.58 acres)" as shown on that certain preliminary plan entitled "Preliminary #11, Additional Land of Rainbrook Villas" prepared by The Sirine Group, LTD., dated February 28, 2001 and more particularly described as follows:

Beginning at a point on the proposed right-of-way of the future Burts Road alignment thence proceeding along the future Burts Road right-of-way N 12°-17'-40" W 335.71 feet to a point; thence turning and leaving said future right-of-way of Burts Road S 78°-35'-43" E 316.95 feet to a point on the western right-of-way of the existing Burts Road; thence S 07°-15'-45" W 198.87 Feet to a point, thence turning and leaving said right-of-way and running S 72°-21'-47" W 224.62 Feet to a point, the point of beginning. Said parcel being further described as the eastern most 68,975 SQ. FT. or 1.583 Acres of properties designated as Tax Parcel 29-82C AND 29-82D on the County of York Tax Maps; Owned by Villa Development, L.L.C., a Virginia Limited Liability Company and recorded in the Clerk's Office of the Circuit Court for the County of York, Virginia in D.B. , P. .

BE IT FURTHER RESOLVED that the Commission recommends that the following conditions apply to the development of the above-described property under the PD classification:

1. General Layout, Design, and Density

- a. Except as specifically modified herein, a site plan shall be submitted for the development of this property and shall proceed in accordance with the plan entitled, "Preliminary #11, Additional Land of Rainbrook Villas" prepared by The Sirine Group, Inc., and dated 2/28/01. Substantial deviation, as determined by the Zoning Administrator, from the general design and layout as submitted or amended herein shall require resubmission and approval in accordance with all applicable provisions as established by the York County Zoning Ordinance.
- b. Except as modified herein, the layout and design of this development shall comply with the Planned Development regulations as provided in Section 24.1-360 of the York County Zoning Ordinance.
- c. The maximum number of residential units shall be 166.
- d. Street trees at least 1-1/2 inches in diameter shall be provided (or credited for existing trees) at no less than forty-foot (40') intervals along the outer loop of the interior road in Phase One of the development. Street trees at least 1-1/2 inches in diameter shall be provided (or credited for existing trees) at no less than forty-foot (40') intervals along both sides of the interior road proposed to be extended from Phase One to an intersection with realigned Burts Road.

2. Streets and Circulation

- a. Roadway design and construction shall be in substantial conformance with the Development Plan. The design and construction of all streets shall adhere to the street and roadway standards established for public streets by the County and the Virginia Department of

Transportation (VDOT). The applicant shall bear responsibility for installing all roadway improvements.

- b. All streets shall be of a curb and gutter design; roll-top curb shall be permissible throughout the development.
- c. In order to provide for safe and convenient pedestrian circulation, the project shall include a four foot (4') wide sidewalk as shown on the concept plan with connections to the pedestrian trails also shown on the concept plan.
- d. Street lighting shall be provided at each street intersection and at other such locations determined by the subdivision agent to maximize vehicle and pedestrian safety. The design of the street lighting shall be consistent with the design and character of the development.
- e. The developer shall dedicate to VDOT within 60 days upon notice by VDOT sufficient right-of-way on the subject property necessary for the completion of the Grafton Drive and Burts Road realignment connector (as shown on the concept plan) that is included in the County's Six-Year Secondary Road Improvement Plan.
- f. The developer shall establish an emergency services access, acceptable to the Department of Fire and Life Safety, to Phase Two of the development. The emergency access drive shall be constructed with a compacted gravel base overlaid with a layer of soil capable of supporting grass and accommodating the weight of large fire and rescue apparatus. This connection shall also be gated and locked to prevent all access other than emergency services vehicles.
- g. Upon completion of the Burts Road/Grafton Drive realignment, the developer shall abandon the temporary access on Route 17 (Parcel 29-18) and construct a permanent entrance to serve Phase One, acceptable to the County and VDOT, on realigned Burts Road. In addition, upon completion of the Burts Road/Grafton Drive realignment, the developer shall construct a second permanent entrance to serve Phase Two, acceptable to the County and VDOT, on realigned Burts Road.

3. Utilities and Drainage

- a. Public sanitary sewer service shall serve this development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and in accordance with all applicable regulations and specifications. The applicant shall grant to the County all easements deemed necessary by the County for the maintenance of such sewer lines.

- b. A public water supply and fire protection system shall serve the development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and the Department of Fire and Life Safety in accordance with all applicable regulations and specifications. The applicant shall grant to the County or the City of Newport News all easements deemed necessary by the County for maintenance of such water lines.
- c. The development shall be served by a stormwater collection and management system, the design of which shall be approved by the County Administrator or his designated agent in consultation with VDOT and in accordance with applicable regulations and specifications. Any easements deemed necessary by the County for maintenance of the stormwater system shall be dedicated to the County; however, the County shall bear no responsibility for such maintenance.
- d. The homeowners' association shall own and be responsible for the perpetual maintenance of all stormwater retention facilities serving the Planned Development.

5. Open Space and Recreation

- a. The location and arrangement of open space shall be generally as depicted on the plan entitled, "Preliminary #11, Additional Land of Rainbrook Villas," dated 2/28/2001.
- b. A minimum of 7.4 acres of open space shall be provided. Said open space may include water management facilities, environmentally sensitive areas, roadside buffers, and recreation space.
- c. A minimum of 3.0 acres of recreation space shall be provided. Said recreation space shall be developed, at a minimum, with a pedestrian pathway, park-style benches along the pedestrian pathway, and an enclosed-screened gazebo as indicated on the master plan. The physical design of the pedestrian pathway shall be designed in such a manner as to accommodate the walking/exercise needs of active seniors and the physically challenged.
- d. The recreation area and facilities designated for the originally approved project, including the pedestrian pathway, must be developed and available for use on or before the occupancy of the twenty-fifth (25th) unit or by the end of the fifth (5th) year from the start of construction, whichever occurs first.
- e. The recreation area and facilities designated for the expansion of the project, including the pedestrian pathway, must be developed and available for use on or before the occupancy of the one hundred thirty-second (132nd) unit or by the end of the fifth year from the start of construction, whichever occurs first.
- f. The location and manner of development for the recreation area shall be fully disclosed prior to closing in plain language to all home purchasers in this development.

- g. All landscaped buffer areas shown on the master plan or required herein shall be encumbered with landscape preservation easements running to the benefit of the County or homeowners' association. Such easements shall stipulate that the described land will remain in its natural state and preclude future or additional development; such easements shall be acceptable as to content and form to the County Attorney.
- h. All common open space and recreational facilities shall be protected and perpetual maintenance guaranteed by appropriate covenants as required in the York County Zoning Ordinance and submitted with development plans for the project.
- i. All recreational services, facilities, and equipment shall be subject to approval by the Division of Parks and Recreation Manager for their consistency with the applicant's proffered conditions and recreational requirements as listed in the Planned Development regulations in the Zoning Ordinance.

6. Environment

- a. Prior to final plan approval, the applicant shall obtain all wetland permits required by federal and state regulations and submit copies of these permits, or evidence that such permits are unnecessary, to the Zoning Administrator.
- b. A major water quality impact study shall be submitted with the development plan consistent with the provisions stated in Section 24.1-372, Environmental Management Area Overlay District.

7. Proffered Conditions

The reclassification shall be subject to the conditions voluntarily proffered by the property owners in the proffer statement entitled, "Statement of Proffers (Revised 2-22-01)," except for condition numbers 9B and 10B, which are attached hereto and made a part hereof by reference.

8. Restrictive Covenants

Prior to final plan approval, the applicant shall submit restrictive covenants for review by the County Attorney for their consistency with the requirements of Section 24.1-497, *Declaration of Covenants and Restrictions*, of the Zoning Ordinance.
